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AUG 22 2003

TECH CENTER 1600/2900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of

TOHNISHI, et al.

Group Art Unit: 1624

Appln. No.: 10/088,543
V.

Examiner: Balasubramanian,

#14

Filed: March 19, 2002

Title: AROMATIC DIAMIDE DERIVATIVE OR SALT THEREOF,
AGROHORTICULTURAL COMPOSITION AND METHOD FOR
USE THEREOF

* * * * *

August 21, 2003

SUPPLEMENTAL RESPONSE

Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

Supplementing the Amendment filed July 29, 2003, in response to the
Office Action dated April 8, 2003, please enter the enclosed, fully executed
Rule 132 Declaration.

In the Amendment filed July 29, 2003, the applicants traversed the
rejection of claims 1-6 under 35 USC 102(b) in view of Tohnishi et al., EP
0919542, (Tohnishi '542). The applicants also traversed the rejection of claims
1-6 under 35 USC 103(a) in view of Tohnishi et al. (EP 0919542).

This reference does not anticipate the presently claimed invention or
make it obvious.

The applicants pointed out that Tohnishi '542 discloses phthalic acid
diamide derivatives of formula (I) for use in insecticides. The applicants
submitted that the presently claimed compounds are not disclosed or

suggested by the teachings of Tohnishi '542, however, in order to more clearly distinguish the present compound from those of Tohnishi '542, claims 1, 2 and 3 were amended to delete -CO- from the definition of "B" in present formula (I). This amendment certainly shows novelty over the disclosure of Tohnishi '542 and further shows unobviousness.

However, to further show unobviousness, the applicants performed experiments that demonstrate new and unexpected results of the presently claimed invention with respect to the insecticidal effect of the presently claimed compounds. The applicants submitted the results of side-by-side comparative tests in a Rule 132 Declaration, attached to the July 29, 2003 Amendment. This Rule 132 Declaration was not executed. The applicants now submit a fully executed copy of the Rule 132 Declaration and ask the Examiner to carefully review the Rule 132 Declaration.

In the Rule 132 Declaration, the compound Nos. 136, 137, 140, 248, 265, 279, 284, 309 and III-5 in Tables 1 and 3 of the present specification were used as test compounds of the presently claimed invention.

Compound Nos. 1975 and 1977 of Tohnishi '542 were used as comparative compounds. Those present compounds have -C (=N-OR⁴) -for B, while the comparative compounds have -CO- for the moiety that corresponds to B of the presently claimed compounds.

The results of the comparative tests are shown in the Table at page 4 of the Rule 132 Declaration. The results in the Table clearly shown that the compounds of the present invention exhibit new and unexpectedly excellent insecticidal effect, compared with the compounds disclosed in Tohnishi '542. All of the test compounds of the presently claimed invention exhibited excellent

mortality rated “A” (100%) at the concentrations 500 ppm and 50 ppm, in the results of Test Examples 1, 2 and 3.

In contrast, the comparative compounds disclosed in Tohnishi ‘542 exhibited mortality rate “-” (49 % or less) in most of the concentrations of Test Examples 1, 2 and 3. The compound No. 1975 merely exhibited mortality rate A at 500 ppm and 50 ppm in Test Example 1, and at 500 ppm in Test Example 2. The compound No. 1977 exhibited the mortality rate A at 500 ppm and 50 ppm only in the Test Example 1.

Please note that both of the Tohnishi ‘542 compound Nos. 1975 and 1977 exhibited mortality rate “-” (49 % or less) on Test Example 3 (insecticidal effect on smaller tea tortrix (Adxophyes sp., even at the highest concentration of 500 ppm.

Significantly, most of the compounds of the presently claimed invention exhibited mortality rate “A” (100%) on Test Example 3, even at the lowest concentration of 5 ppm.

The presently claimed invention shows new and unexpected results over the compound of Tohnishi ‘542.

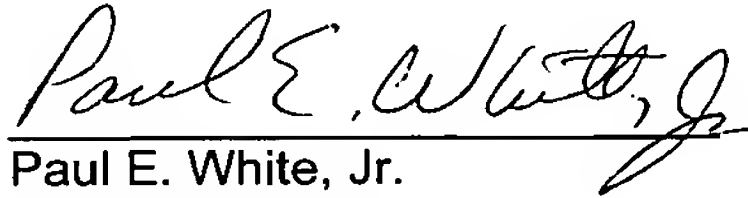
Accordingly, the applicants submit that the presently claimed invention is fully allowable under Section 103(a) as well as Section 102(b) in view of the cited reference.

In view of the above and the attached, executed, Rule 132 Declaration,

the applicants respectfully submit that the presently claimed invention is in condition for allowance and a Notice to that effect is respectfully requested.

Respectfully submitted,

Manelli Denison and Selter, PLLC



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 46-168

In re patent application of
TOHNISHI et al.

Group Art Unit: 1624

Serial No. 10/088,543

Examiner: Balasubramanian, V.

Filed: March 19, 2002

For: AROMATIC DIAMIDE DERIVATIVE OR SALT THEREOF, AGROHORTICULTURAL
COMPOSITION AND METHOD FOR USE THEREOF

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TRANSMITTAL OF RESPONSE

AUG 22 2003

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TECH CENTER 1600/2900

Sir:

Transmitted herewith is an Response in the above-captioned application. The fee has been calculated as shown below. *(Small entity fees indicated in parentheses.)*

CLAIMS AS AMENDED							
(1)	(2)	(3)	(4)		(5)	(6)	(7)
	Claims Remaining After Amendment		Highest Number Previously Paid For		Extra Claims	Rate	Fee
Total Claims	6	-	20		0	18.00	0
(Small Entity)						(9.00)	
Independent claims	1	-	3		0	84.00	0
(Small Entity)						(42.00)	
Multiple Dependent	0	-	0		0	280.00	0
(Small Entity)						(140.00)	
Extension of Time	One Month		Two Months		Three Months		
Fee	\$110		\$410		\$930		0
(Small Entity)	(\$55)		(\$205)		(\$465)		0
Total							0

The above fees are believed to be correct. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0687 for the above attorney docket number, for which purpose this paper is submitted in duplicate. **CUSTOMER NO. 20736**

Respectfully submitted,

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Date: August 21, 2003

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